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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 17 of the provisional agenda

PROMOTION AND PROTECTION OF HUMAN RIGHTS

Written statement* submitted by the International Federation of ACAT, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 0 8 7 1 *

ENG

Impunity, an encouragement to ongoing human rights violations

During its 57th session, the UN Human Rights Commission insisted on "the importance of the fight against impunity to prevent violations of international law concerning human rights and international humanitarian law" (Resolution 2001/70, adopted on 25 April 2001).

Therefore, the International Federation of ACAT (Action by Christians for the Abolition of Torture) hopes to draw the attention of members of the Commission to continuing instances of impunity in Togo and Chechnya because no action is being taken against those responsible for serious violations of human rights.

Togo: Entrenched impunity

There has been no real follow-up to the recommendations drawn up by the UN/OAU International Commission of Inquiry regarding violations of human rights in Togo.

Its report, published on 22 February 2001, outlines in particular crimes of torture, rape, numerous arbitrary arrests, forced or involuntary disappearances, numerous extrajudicial executions and other violations committed in the country. The authorities seem unwilling to seek out the perpetrators of these barbarous acts. Impunity continues and human rights are constantly violated. Despite promises and commitments made by the Togolese government, violence is often used to intimidate and gag any opposition.

Repeated physical attacks on members of opposition parties during the last three months of 2001 and the large number of arbitrary arrests suggest an upsurge in violence linked to the forthcoming legislative elections. Members of the CENI (Independent National Electoral Commission) were victims of serious violence in October 2001 in the northern part of the country. Leaders of the UFC party were similarly attacked in October 2001 in Kara, the ruling party's stronghold. During the same period, Aidam Cormelius, another opposition leader, was beaten up in the Lomé police headquarters and his attackers, although they have been clearly identified, are unintimidated. Prisoners of conscience include, among others, Mr Agboyibo (a lawyer and head of the Council of Action for Renewal), Mr Palanga (UFC) and Hounjo Mawudzuro (leader of the student union).

Appalled by this situation, FI.ACAT asks the members of the Human Rights Commission:

- to publish their report on the current situation in the country (under procedure 1503) so that the international community can gauge the real commitment of the Togolese authorities in favour of human rights protection;

- to demand that all the authorities in the country conform to the Lomé framework agreement signed in 1999 by the opposition parties and the ruling regime;

- to insist that the Togolese authorities identify and bring before the courts those responsible for crimes reported by the UN and OAU international commission;

- to demand that they immediately free prisoners of conscience currently incarcerated and ensure no further violations of freedom of expression and stop all repression and threats against political opponents.

Chechnya: The silence of the international community

FI.ACAT is extremely concerned by the worsening situation in the Chechen Republic.

In early 2002, Russia launched a number of violent attacks in the south of Chechnya, "cleaning-up" operations by the armed forced and the FSB (the security service) continue and the civilian population is the principal victim of the conflict. In January 2001, the Argoun, Ourous-Martan and Chali regions felt the full force of these operations and the capital, Grozny, is totally in ruins.

Using the fight against terrorism as a pretext and taking advantage of the panic following the attacks of 11 September, the Russian authorities intensified their military operations, with disproportionate and arbitrary strikes where once again the civilian population is the chief victim.

Back in summer 2001, in Sernovodsk, Assinovskaya, Goyskoe and Alleroy, attacks by fighters from all sides led to the perpetration of very serious human rights violations against the civilian population, whereby the forces in place stepped up the number of arbitrary arrests, carried out acts of torture and led punitive attacks.

Overall, violence against the civilian population, pillage, extortion, rape, forced disappearances, extrajudicial, summary and arbitrary executions and torture are widespread.

The slowness of the legal system and the unwillingness of the authorities to change things are apparent. Of 7000 complaints received by Vladimir Kalamanov's office, as Special Representative of the President of the Russian Federation for Human Rights in Chechnya, only 383 cases of crimes against civilians have been taken up officially. Most of the others are in limbo, either because they have been suspended or have yet to be properly registered.

In July 2001 the institutions of the Council of Europe took firm action to denounce this intolerable situation. As a result the European Committee for the Prevention of Torture (CPT) issued a public statement regarding the Chechen Republic, something it rarely does. The statement was deemed necessary because the Russian authorities failed to cooperate with the CPT in carrying out a detailed and independent inquiry into what happened in Tchernokosovo or into virtually any other violations linked to the conflict.

Despite the diplomatic efforts on the part of the Council of Europe, with the setting up of the Chechnya working group, no progress has been reported whatsoever. The resolutions adopted by the Human Rights Commission in 2000 and 2001 have not been followed up by any action.

This is why FI.ACAT is asking the members of the Human Rights Commission to take a firm stand on the situation in Chechnya and:

- strongly condemn the intolerable violations of international humanitarian and human rights law committed on Chechen soil;

- insist that national and international NGOs can return in safety to carry out their work in Chechnya;

- ask the Russian Federation to allow UN bodies to work within its borders and to ask special rapporteurs on extrajudicial executions, torture and impunity to go to Chechnya;

- insist that the Russian authorities open inquiries immediately into the violations, bring the perpetrators before the appropriate courts and ensure victims are compensated as soon as possible;

- require the setting up of an independent international commission of inquiry to assess the situation, investigate human rights violations and identify the perpetrators.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by the International Federation of ACAT, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201087 5*

ENG

Massive violations of human rights in the Democratic Republic of Congo (DRC) and in Cameroon

The International Federation of ACAT (Action by Christians for the Abolition of Torture wants to draw the attention of members of the Commission to massive violations of human rights perpetrated in Cameroon and the DRC whereby the civilian population is the main victim.

DRC : A civilian population hostage to serious violations of human rights and international humanitarian law

In the DRC the civilian population is hostage to a conflict that is worsening in full view of the international community and is victim of intolerable suffering.

Already almost 3 million children, women and men have been killed following foreign occupation, more than 2 million people have been internally displaced and 16 million others are in danger, especially of famine and illness that are inexorably linked to the war within the country.

The situation is getting worse all the time, especially in the eastern part of the country which is still largely under foreign occupation. Massacres and atrocities continue to be perpetrated with impunity: rape, spreading viruses as a weapon of war, assassinations, kidnappings, pillage, torture by the military, uncontrolled armed groups or the RCD (Congo Rally for Democracy) forces are on the increase against a terrified population. During 2001 12 women were buried alive in Mwenga in the southern Kivu province!

Moreover, the arrest and arbitrary detention of a number of political opponants, students and journalists, often with violence, expose the unwillingness of the Congo authorities to return to the rule of law in the country. The prison system is deplorable: during his last visit to the DRC, from 19 July to 2 August 2001, Mr Roberto Garretón, then special UN rapporteur for the country, spoke to a number of prisoners who reported being subjected to appalling torture in dungeons where they were held in secret.

The Congolese judicial system is totally ineffectual in dealing with the vast number of crimes committed since the hostilities began. The unwillingness of the international community to intervene means impunity becomes a little more entrenched each day in the Great Lakes Region, removing all hope of implementing the rule of law and of an end to the conflict in the DRC.

In view of the seriousness of these violations and the urgency of the situation, FI.ACAT asks the members of the Human Rights Commission immediately to:

- persuade all parties in the conflict in the DRC to respect the Lusaka agreements of 1999 and engage fully in dialogue among the parties in Congo;

- ensure that all perpetrators of crimes are brought before the international criminal courts without delay and that the victims are fairly compensated;

- ask that the special rapporteur on extrajudicial, summary and arbitrary executions, the special rapporteur on the human rights situation in the DRC and a member of the working group on forced or involuntary disappearances immediately be invited to visit the DRC;

- ask that an international commission of inquiry be sent to the DRC in order to assess the situation, determine violations of international humanitarian law and of international standards on human rights and identify perpetrators of crimes.

Cameroon: Human rights violations carried out by the Operational Command force have already led to several thousand deaths

The International Federation of ACAT (Action by Christians for the Abolition of Torture) underlines once again this year the impunity that goes unchecked in Cameroon.

For two years now national and international human rights organisations, including a member of our organisation, ACAT-Cameroon (Littoral branch), have been denouncing the systematic practise of torture and numerous cases of disappearances and extrajudicial executions that are believed to be the work of the Operational Command Force, set up in February 2000 by President Biya to fight banditry in the Littoral province.

The discovery since the beginning of 2000 of mass graves believed to be linked to these Command Forces sent a shock through the international community. The government has not to date, however, been able to provide a credible explanation for the numerous cases of disappearances reported.

On 29 March 2001, when it made an oral statement, FI.ACAT told the members of the Human Rights Commission about the disappearance of 9 young people from the Bepanda Omnisport area in Douala, following their arrest by the security forces on 23 January 2001. These young people, suspected of having stolen a bottle of gas, were transferred to the Operational Command Headquarters and are believed to have been summarily executed between 31 January and 8 February 2001. Their bodies were then covered in acid according to accounts by members of the security forces. This case provides a typical example of the methods of torture used by the Operational Command to maintain order in the Littoral province.

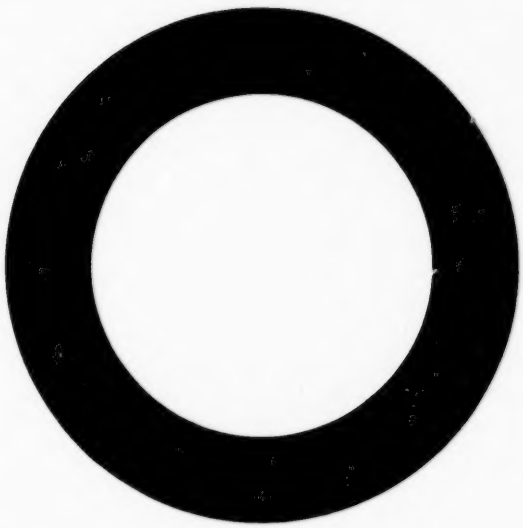
Under pressure from the national and international community an inquiry was opened on the matter but the legal process is at a standstill because of the stalling techniques used by the authorities in their embarassment.

However this is anything but an isolated matter. Some time before, ACAT Cameroon had received numerous reports of torture, extrajudicial disappearances and executions and continues to do so.

Human rights associations investigating the abuses committed by the Operational Command Forces and objecting to human rights violations are constantly threatened and intimidated.

Proof is hidden or destroyed and the families of those who have disappeared are dissuaded from reporting the matter to the relevant authorities. In most cases they are unable to recover the bodies of their relatives.

The international community is slowly mobilising in view of the extent of this tragedy. In November 2000, the UN Committee against torture stated that torture was still "a very common practice" in Cameroon and recommended the Cameroon government in particular " to consider dismantling the special forces created as part of the fight against banditry". On 17 May 2001, the European Parliament also adopted a resolution on the human rights situation in



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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (a) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement* submitted by the International Federation of ACAT, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2002]

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GE. *200201087 9*

ENG

Terrorism and torture

In the international context following the 11 September 2001 terrorist attacks in the US, bearing in mind that the Preamble of the Universal Declaration of Human Rights (UDHR) states that :

- "Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind";

- "Member states have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms",

Having regard to Articles 3 and 5 to 11 of the UDHR,

The International Federation of ACAT (Action by Christians for the Abolition of Torture) wishes to draw the attention of the Human Rights Commission to the serious risk of violation of human rights and fundamental freedoms in the form of government and legislative measures that have been taken by a large number of States,

Noting that in several countries there have been public statements legitimising the use of torture in dealing with alleged terrorists in order to prevent terrorist action, FI.ACAT emphasises that :

- torture is expressly prohibited by all the most important international and regional conventions;

- there can be no derogation from this ban, whatever the circumstances and wherever the acts are committed,

Having regard to the statement by 17 Independent Experts of the Commission on Human Rights dated 10 December pointing out that anti-terrorist legislation adopted in a number of countries (notably US, Canada, EU, Great Britain, Germany, France, India, Japan, Nepal, South Africa) is being used as a pretext for security-led policies, FI.ACAT :

- believes that they seriously violate human rights and fundamental freedoms protected by international treaties (in particular, the right to asylum, the rights of any person arrested and detained, the presumption of innocence, certain procedural guarantees, the right to defend oneself, to be assisted by a lawyer, to be brought before a judge, to be judged by a court under common law, not to be subject to discrimination, etc);

- invites, therefore, the relevant mechanisms (Special Rapporteur on torture, working groups on arbitrary detention and extrajudicial executions, the Special Representative on human rights defenders) to be especially vigilant and to encourage them to invite all countries concerned to comply,

In view of the statement by the High Commissioner for human rights on the conditions of detention of the Taliban and Al Qaida prisoners at the American base of Guantanamo in Cuba on 16 January 2002,

FI.ACAT reiterates that :

- these persons are protected by international treaties on human rights and humanitarian law, in particular the International Covenant on Civil and Political Rights and the Geneva Conventions of 1949;

- in accordance with Article 5 of the third Geneva Convention, the legal status of these persons and their right to be considered prisoners of war can only be established by a proper court,

In view of the small number of States that are party to the Convention against Torture, and the even smaller number of States that have issued statements regarding Articles 21 and 22, recognising the jurisdiction of the Committee against Torture to consider and pass judgement in cases,

Given that, at the same time, there are many cases of torture in those States that have not ratified the above Convention or have not signed it,

FI.ACAT asks the Human Rights Commission to remind those States that have not yet done so of the absolute necessity to ratify all international and regional instruments in the fight against torture, especially the UN Convention against Torture, to accept the jurisdiction of the Committee regarding Articles 21 and 22, the International Covenant on Civil and Political Rights and the Rome Statute on the setting up of the International Criminal Court.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201088 3*
ENG

Discrimination of refugees in Australia

Society for Threatened Peoples would like to draw the attention of the honourable United Nations Commission on Human Rights to the discriminatory treatment of refugees in Australia which is contrary to international refugee and human rights law.

In light of the current refugee crisis in Southeast Asia and Oceania the Australian government has enacted policies that severely restrict the rights of refugees. Due to increasing numbers of asylum seekers Australia has adopted a tough refugee policy in 2001. Australia is refusing to allow asylum seekers to land on its shores to process their refugee applications. Instead it has adopted a new legislation which has removed Christmas Island and the Ashmore reef Islands from Australia's migration zone, the area within territorial waters from where applications for asylum can be lodged. Excising parts of the country from federal Australian law in order to avoid international obligations is not only extraordinary but a violation of International Law. The new provision violates the U.N. 1951 Geneva Refugee Convention which provides asylum to refugees, "irrespective of their mode of arrival." Australia has signed and ratified the Convention.

Furthermore the Australian government has decided to move the refugees on to various Pacific island nations where their applications will be processed. We are extremely concerned that Australia is offering huge aid packages to island nations in the South Pacific for lodging boat people who arrived on the Australian shores. The Australian government has paid $ 10 million to house hundreds of asylum seekers in makeshift camps while their claims are processed. Due to this discriminatory and inhuman treatment refugees are showing signs of post-traumatic stress. It's a cruel and demeaning policy to use aid deals to lure Pacific Island nations to accept boatloads of asylum seekers. We are calling upon the United Nations Human Rights Commission to condemn this policy of human trafficking.

In addition the new legislation tightens definitions and prevents asylum seekers from receiving the procedural safeguards and the protection to which they are entitled to under international refugee and human rights law. For example, arbitrary detention of asylum seekers outside the migration zone is allowed without judicial review. This provision is a violation of the guidelines of the United Nations High Commission on Refugees on the detention of asylum seekers. In violation of Article 31 of the refugee Convention applications from asylum seekers who have spent several days in transit in a "safe country" are prohibited.

Our Human Rights Organisation is very much concerned about the conditions in Australian refugee detention centres. We are extremely worried about the situation of at least 500 children who are currently detained in custody. We are calling upon the United Nations Human Rights Commission to urge Australia to release the children immediately.

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COMMISSION ON HUMAN RIGHTS
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THE RIGHT TO DEVELOPMENT

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE. * 0 0 2 0 2 1 0 8 8 7 *

ENG

Failed promises of the richest countries to support the right to development

The richest countries of the world promised to help developing countries halve poverty, reduce child mortality by two thirds and ensure every child gets free and good quality primary education by 2015. There remains a huge gap between promises and action. The Society for Threatened Peoples is concerned that the richest countries in the world may once again fail the poor and break past promises to fight poverty. The lack of development has been causing numerous ethnic and religious conflicts in 2001. Without serious action, future prospects for conflict prevention are bleak. Although G8 governments have committed themselves to ensuring the achievement of the international development goals for 2015, current trends indicate failure.

Rich and poor country governments at numerous international meetings have promised to tackle the debt crisis, to improve the living conditions of the poorest and to protect the planet from climate change, deforestation and species extinction. Long-term extinction trends in plants and animals have been unaffected by the Earth Summit in Rio de Janeiro in 1992. Several dozen indigenous peoples have disappeared since the Earth Summit due to a lack of programmes to preserve biological diversity and to support sustainable development. Hundreds of indigenous peoples have been suffering from the destruction of rainforests and mangrove areas. The global rate of tropical forest destruction remains at the level it was in the early 1990s – 1 % per year. That means 10 % of the world's rainforest will be destroyed in a decade. There is an urgent need for funding of programmes on sustainable development in order to ensure the survival of hundreds of indigenous peoples and to protect biodiversity.

There have been many promises of the rich world to tackle these crises. But promises have not been matched with resources. Aid levels have declined to their lowest levels, at $ 53bn, and are still declining. Between 1999 and 2000, G7 aid fell by almost 5 %. However, while the target level for aid has been agreed at 0,7 % of the economic wealth of a country (GNP), G7 countries only allocate an average 0,19 %,. In the meantime non – G7 donor countries give 0,46 %. Denmark, Norway, Sweden and the Netherlands, provide an equivalent of four fiths of total aid delivered by the USA, yet have the combined population of one Federal State in the USA. Sweden provides more aid than Canada. The Netherlands are delivering twice as much as Italy. The Society for Threatened Peoples is ashamed about the appaling gap between the promises of the richest countries and the resources given to poorer countries. According to UN estimates, an additional $ 100bn could be provided to developing countries, if the richest countries actually would meet their 0,7 % commitment.

The Society for Threatened Peoples calls on the UN Commission on Human Rights to urge the richest countries to keep their promises and to provide 0,7 % of their economic wealth to poorer countries in order to ensure sustainable development and to prevent ethnic, religious and social conflicts. Failed promises of the richest countries to support the right to development and to prevent ethnic, religious and social conflicts.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

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GE. *200201088 9*

ENG

Question of the violation of Human Rights and Fundamental Freedoms, including policies of Racial Discrimination and Segregatian and of Apartheid, in all countries, with particular reference to Colonial and other Dependent Countries and Territories: Report of the Sub-Commission, Under Commission on Human Rights Resolution 8 (XXIII)

The gross and systematic violations of human rights and fundamental freedoms of the Tibetan people committed by the People's Republic of China, including the implantation of Chinese settlers into Tibet, continue to be documented. Human rights abuses are increasing in number and severity since the adoption of resolution 1991/10 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Individually, these human rights violations warrant immediate intervention by the mechanism of the United Nations Commission on Human Rights. Collectively, the pattern is so pervasive and persistent as to demand immediate condemnation and action by the UNCHR's 58th session.

The Chinese Government continues to attempt to undermine the practice and high-teachings of Tibetan Buddhism. It still refuses to allow visitors to confirm the well-being of the eleventh Panchen Lama of Tibet, Gedhun Choekyi Nyima. Human rights groups and Governments reports indicate that scores of monks and nuns have been detained or expelled from their monasteries and nunneries for objecting to an ongoing "patriotic re-education campaign". The Tibetan Centre for Human Rights and Democracy based in India records that more than 12,000 monks have been expelled for opposing the campaign between 1996-2001.

In June 2001 reports emerged from Tibet of the increased official Chinese monitoring of the growing clergy population of Serthar Buddhist Institute located in the so-called "Karze Autonomous Tibetan Prefecture" of Sichuan province. In the spring of this year, officials from 13 different districts of Kanze, Dartsedo, Derge, Nyarong, Sershul and Serthar (Serta) districts of Kham came to massive Serthar Buddhist Institute or the Larung Ngarig Nangten Institute. The officials received direct instructions from both the Chinese government in Beijing that the Institute's massive clergy population of more than 10,000 must be reduced to 1,500. The authorities said the excluded members of clergy must be returned to their respective districts or countries and the vacated monastic rooms demolished. The clergy population of Serthar Buddhist Institute cuts across nationalities. There are about 1,000 Chinese monks from China along with students from Singapore, Malaysia and Hong Kong, including 4,000 nuns who live and study at a nunnery, affiliated to the institute. The bulk of the students at Serthar Buddhist Institute were Tibetans. By October 2001, another Tibetan Buddhist institution faced a similar crackdown when the Chinese authorities demolished the living quarters of Yachen Gar Monastery in Eastern Tibet and expelled most of its students.

In April 2001, it was known that a five-metre bronze and gold statue of Maitriya, the future Buddha, that showcases the tomb of the 7th Dalai Lama, is being shipped to Shanghai from Lhasa, the Tibetan capital. The discovery together with the news that statues and artefacts from another shrine in the Potala Palace are being readied to be shipped as soon as possible to Shanghai is causing deep pain and anxiety to the people of Tibet. Idols and images made of gold, silver, brass and precious stones and metal were taken to China and eventually they found their way in the market of Hong Kong, Shanghai and Tokyo where antique-collectors from the West bought them for exorbitant prices. A rough estimate of the foreign exchange earned by China from the sale of Tibetan religious and art objects is more than 80 billion American dollars."

That pattern of human rights abuses, and the sources of that pattern, were recognized in the International Commission of Jurists' 1997 report on Tibet, in which it concluded that Tibet is

under "alien subjugation" and called for a referendum by Tibetans to determine how they wish to be governed. Allowing Tibetans to exercise their right of self-determination appears to be the only way to end the persistent human rights abuses in Tibet. Indeed, the UN General Assembly resolutions of 1959, 1961 and 1965 called upon the People's Republic of China to respect the right of the Tibetan people to self-determination.

On 24 October 2001, in an address to the plenary session of the European Parliament, His Holiness the Dalai Lama said: "My initiatives and overtures over the years to engage the Chinese leadership in a dialogue remains unreciprocated. Last September, I communicated through the Chinese Embassy in New Delhi our wish to send a delegation to Beijing to deliver a detailed memorandum outlining my thinking on the issue of Tibet and to explain and discuss the points raised in the memorandum. I conveyed that through face-to-face meetings we would succeed in clarifying misunderstandings and overcoming distrust. I expressed the strong belief that once this is achieved then a mutually acceptable solution of the problem can be found without much difficulty. But the Chinese government is refusing to accept my delegation till today."

Since 1979, the Tibetan government in exile under the leadership of His Holiness the Dalai Lama has been pursuing a policy of dialogue with China to resolve the Tibetan problem. In the spirit of reconciliation and compromise, numerous initiatives were outlined by the Dalai Lama. However, the Chinese leadership continues to oppose negotiations without preconditions although the Dalai Lama has said on record that he is not seeking the independence of Tibet. China has instead initiated a ruthless campaign in Tibet to further deny the Tibetan people of their human rights and fundamental freedoms.

Beijing hardened its policy towards "splittist" activities and repression was intensified all over Tibet to eliminate political dissents. The current intensification of political repression is an outcome of Chinese authorities policies that are clearly reflected in the official statements of their leaders. During the seventh Chinese People's Consultative Conference, on 22 May, 2000, Lechog, the chairman of the "Tibet Autonomous Region" said: "...government staff should advise local people and their subordinates to oppose splittism and cut ties with the Dalai Lama. The Dalai Lama issue should be studied and any underground organisation activating in Tibet should be filtered and gotten rid of." After the 11 September tragedy in the United States of America, Beijing is now adamant to use its backing of the international coalitionagainst terrorism to gain support for its policy of suppression in Tibet.

In conclusion, we call upon the Commission on Human Rights to recognize the persistent pattern of human rights abuses against the Tibetan people and the continued failure of the People's Republic of China to resume negotiations with His Holiness the Dalai Lama or his representatives to resolve the issue of Tibet. The pattern of human rights abuses in Tibet points to a threat of destruction of the Tibetans as a people unless the international community intervene to end the violations.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: TORTURE AND DETENTION

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GE. *0020108 91*

ENG

Torture and Detention in the People's Republic of China

The People's Republic of China is party to several UN human rights instruments and standards all of which adhere to provide the fullest form of protection to detainees, including those held for their political or religious beliefs. China is now even a signatory of the UN Convention on Civil and Political Rights. In November, 2000, Beijing also signed a Memorandum of Understanding with the Office of UN High Commissioner for Human Rights. These steps taken by China to bring its human rights behaviour closer to international norms and standards on human rights and fundamental freedoms are a welcome signs. However, when recognising Beijing for taking these steps, the international community must not ignore the massive human rights violations which are committed by security forces of the People's Republic of China against Tibetans, Uighurs, Mongolians, Christians, political dissidents and Falun Gong believers. Security forces routinely resort to arbitrary arrest, imprisonment, and torture in response to non-violent protest, including displaying Tibetan flags or other symbols of cultural identity, holding peaceful demonstrations, possessing a photograph of the Dalai Lama, forming prisoner lists, putting up posters, and distributing leaflets. Society for Threatened Peoples expresses its deep concern about the massive arrests of Falun Gong activists while peacefully practizing their believe. Numerous testimonies of arrested Falun Gong practioners are documenting the widespread use of torture in detention centres to extract confessions. Furthermore we are very much alarmed about the huge number of deaths of Falun Gong practioners in custody. Society for Threatened Peoples is extremely worried about the use of the Strike Hard Campaign, which officially is intended to combat criminality, to arbitrary arrest and sentence to death hundreds of Muslim Uighurs in the Autonomous Region of Xinjiang.

Each year Tibetan political prisoners die in custody in Tibet. The Chinese authorities have so far failed to launch any investigations into the mysterious deaths of five Tibetan nuns following the May 1998 Drapchi Prison Protests. The situation is same concerning the custodial death of 60-year-old Sholpa Dawa, a prominent Tibetan human rights defender, who died on 19 November 2000, at a hospital outside Drapchi Prison. His body was not even handed over to his family members to perform the last rites. He had been arrested three times. The third time for collecting names of political prisoners and communicating these to the outside world.

Reports of Tibetan political prisoners dying in custody or after release continue to emerge from Tibet. The death of a former political prisoner, Mr. Namgyal Tashi in 2001, father of Ngawang Sangdrol, the longest-serving female Tibetan political prisoner in Tibet, is one example of how former-detainees gradually succumb to prison mistreatment. New evidence also emerged about the death in February 2001 of a Tibetan nun, Ngawang Lochoe, a year before the end of her 10-year sentence in Lhasa's Drapchi prison. Twenty-eight year old Ngawang Lochoe had been suffering from a condition known as acute pancreatitis and had only been hospitalised on the day of her death, according to the official source. Ngawang Lochoe was sentenced in July 1992 to five years in prison for taking part in a peaceful protest in Lhasa. Her sentence was extended by another five years in 1993 after she and 13 other nuns in Drapchi made a tape recording songs dedicated to their family and friends, which was smuggled out of prison.

In August/September 2001, a Tibetan monk in his early twenties from Labrang monastery in north-eastern Tibet died following maltreatment during a short period of detention in Lhasa. The monk, Kelsang Gyatso, was detained with a large group of Tibetans who were attempting to escape into Nepal. Another case involves a Tibetan farmer in his thirties who died in prison following his participation in demonstrations to protest against the arrest of a respected Buddhist teacher. Tsering Wangdrak, who is survived by his wife and two young children,

died last August 2000 in prison while serving a sentence of three years and eight months. Reports said that he was beaten unconscious at least once, suffering blows to his chest and stomach, during his initial period in detention following the demonstrations in Karze (Chinese: Ganzi) in Sichuan Province in October 1999. Tsering Wangdrak was one of several Tibetans sentenced for their participation in one of the largest demonstrations in Tibetan areas since the 1980s. The demonstrations followed the arrests of a senior Buddhist teacher, Sonam Phuntsog, who is reportedly still being held in detention, his assistant Sonam and another monk, former political prisoner Agyal Tsering.

On 9 May, 2000, the Committee Against Torture, in its concluding observation on China's Third Periodic Report, expressed concern "about the continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities." In this connection, we would like to urge the Chinese authorities to receive the Special Rapporteur on Torture as invited in 1999.

Fourteen Tibetan political prisoners are currently being held in Ngaba prison in Maoxian. Eleven of the 14 are monks. In February 2001, a comprehensive study by Tibet Information Network (TIN) in London listed a total of 197 Tibetan monks and nuns detained in Tibet. In April 2000, the director of the Tibet Autonomous Region (TAR) Prison Administration Bureau told a visiting foreign delegation that there were over 100 monks and nuns imprisoned in the TAR's three prisons, of whom 90 percent were incarcerated for "endangering state security." There are continued reports of imprisonment and abuse or torture of monks and nuns accused of political activism. Prisoners who resisted political re-education imposed by prison authorities, particularly demands to denounce the Dalai Lama and accept Gyaltsen Norbu, the boy recognized by the Government as the Panchen Lama, were beaten. The TIN reported severe beatings of several nuns serving long prison sentences, including Ngawang Choezom and Phuntsog Nyidrol, imprisoned in 1989 for singing pro-independence songs. Government officials stated that because Phuntsog Nyidrol has shown repentance, her sentence has been reduced by one year. Nun Ngawang Sangdrol also was beaten severely on multiple occasions and held in solitary confinement for an extended period. Her prison sentence was extended for a third time in 1998, for taking part in demonstrations in prison, to a total of 21 years. Ngawang Sangdrol's health continues to be of concern, despite government officials' assertions that her health is fine.

There are also growing concerns on the health of Tibetan political prisoners like Tanak Jigme Sangpo and Ngawang Choephel on whose behalf thematic special rapporteurs and working groups of the Commission on Human Rights have intervened to the Chinese authorities. We appeal to the Chinese authorities to once again allow Mrs. Sonam Dekyi who lives in India to visit her imprisoned son Ngawang Choephel. Ngawang Choephel was secretly sentenced to 18 years on the charges of "espionage.

In the light of the grave human rights situation in Tibet, we urge the Commission on Human Rights to intervene urgently on the human rights situation in Tibet. In order to preserve its mandate, the Commission on Human Rights, is therefore urged to adopt a resolution on Tibet that calls upon the People's Republic of China to refrain from policies which threaten the distinct cultural, religious and national identity of Tibetans.

Furthermore we are calling upon the Commission on Human Rights to urge the People's Republic of China to take immediate steps to prevent torture in detention centres and prisons and to stop arbitrary arrests of Uighurs, Mongolians, political dissidents, Christians and Falun Gong practioners.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 12 (a) of the provisional agenda

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 0 0 2 0 2 0 1 0 8 9 3 *

ENG

Violence against women in Sudan

Society for Threatened Peoples expresses its deep concern at the impact of the ongoing armed conflict in Sudan on the situation of human rights and its adverse effects on the civilian population, in particular women and children. In the oilfields of Sudan thousands of women have been killed or displaced, their villages burned to the ground. The Government of Sudan seems to regard the civilian population not as citizens but as a security risk and potential supporters of armed resistance movements. By committing massive human rights violations the Government of Sudan ensures a safe way for oil companies to exploit the natural resources of the country. The Government of Sudan has increased its support for pro-government militias and its direct military activities near the oilfields in the province of Western Upper Nile to ensure its control of roads, airstrips, villages and facilities of the oil industry. The growing importance of oil in the war economy has provoked attacks on oil installations by anti-government forces and further military activity on all sides. Pro-government and anti-government forces in conflict with one another have burned and looted villages in all areas of Western Upper Nile. Oil companies are directly or indirectly assisting the Sudanese Army by allowing the use of vehicles, roads, airstrips and other facilities for military purposes.

Defecting soldiers of the Sudanese Army testified that they had been ordered to participate in attacks on non-government controlled settlements. These helicopter attacks were part of a government strategy to force the inhabitants out of the area. The soldiers reported that they had been instructed to kill civilians and any persons believed to be not loyal to the authorities in order to ensure the oil production. Thousands of Southern Sudanese women have been forced to leave their homes and became dependent on international humanitarian aid. The forced displacement has been severely disruptive to the economy of Western Upper Nile. The destruction of their homes, the looting of livestock and loss of grain reserves make survival in the conflict-affected areas extremely difficult for the agro-pastoral Southern Sudanese population.

The armed conflict has greatly affected the lives of women and completely changed their role in the family and the community. The breakdown and disintegration of family and community networks has forced women to assume new roles. A large number of female-headed households has been created where the men have been displaced, detained, have disappeared or are dead. Women invariably have to bear greater responsibility for their children and their elderly relatives when the men in the family have gone. The absence of the men heightens the insecurity and danger for the women and accelerates the breakdown of the traditional protection and support mechanisms upon which the women have previously relied. Many women are fleeing due to increased insecurity. Women became heads of households and breadwinners, taking over the responsibility for earning a livelihood, caring for animals and being active outside the home. Women have to fight more to get jobs and enough money which leads to a growing migration towards the cities where women are trying to do business in the markets. Women whose husbands have disappeared experience many of the same problems as widows, but without official recognition of their status. Furthermore they are suffering from the psychological effects and insecurity because the fate of their husbands is unknown.

We are calling on the United Nations Commission on Human Rights to condemn the human rights violations in the oil-region of Sudan and urge the Government of Sudan to immediately open the area to humanitarian and human rights organisations. The Sudanese authorities should be urged to suspend their oil production until a just and lasting peace has been agreed in Sudan and until the victims of forced displacements have safely returned to their places of

origin. All conflict parties should be urged to respect and protect human rights, international humanitarian law and fundamental freedoms.

We are extremely worried about the ongoing bombardement of schools, markets, emergency-feeding centres, churches and airstrips by the Sudanese Airforce in conflict areas in Sudan. The deliberate bombardement of civilian targets has been deeply deteriorating the situation of women in Sudan and violates basic human rights principles and international conventions to protect the civilian population during war.

We are appealing to the honourable Commission once again to call upon the Government of Sudan to finally sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women.

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COMMISSION ON HUMAN RIGHTS
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Item 14 (c) of the provisional agenda

SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201089 5*

ENG

Displaced persons and Human Rights in Bosnia's Republika Srpska

Almost six years after the Dayton Peace Agreement Bosnia-Herzegowina is still a divided country. Despite generous international funding of reconstruction and infrastructure projects the Republika Srpska (RS) remains the major obstacle to the establishment of a stable and multiethnic Bosnian State. The RS which has been founded by ethnic cleansing and mass expulsion of non-Serbs still has an appalling human rights record.

Six years after the end of the war at least 700.000 Internal Displaced People (IDP) are prevented to return into their villages. According to figures of the UNHCR only 16.000 non-Serbs returned to the RS between January and July 2001. The returnees and international observers are reporting widespread discrimination of non-Serbs by the authorities of RS. Furthermore the authorities are encouraging violence against ethnic and religious minorities. At least five returning Internal displaced people have been murdered after their return in their villages. The youngest victim has been 16 years old. Many of the incidents are well organized to discourage non-Serbs from returning home. The violence directed at Bosniaks and Croats has included physical assaults, attacks with firearms and explosives, organised riots, murders, and extensive destruction of properties. Headlines in the international media made rioters in Trebinje and Banja Luka in May 2001 who prevented the rebuilding of two historic mosques destroyed by Serbs during the war. Escalating human rights violations are provoking a new exodus of Muslims, Croatians and Roma from RS.

International financial assistance should be granted only under the condition of an evident respect of human rights, a substantial and effective cooperation with The Hague Tribunal and to accept the return of non-Serb refugees. Despite conditional aid of the EU and USA the government of Republika Srpska did little to support minority returns to the RS. We are deeply concerned about the failure of international aid to produce the desired changes in the RS since 1997.

We are calling upon the United Nations Human Rights Commission to condemn human rights violations and discrimination of non-Serbs in the RS. This violence and ethnic hatred is orchestrated by the Serb Democratic Party (SDS). Officials of the SDS are controlling the Ministry for Tourism, Industry, Technology and Commerce and have a major influence on the mining and energy industry, the education system. The so called "independent expert" serving as Minister for Refugees and Displaced Persons, Mico Micic, was a physical education teacher before the war and later became an SDS politician. Before his ministerial appointment, he headed the Bijeljina association of war invalids and fallen soldiers. In many municipalities, these associations help organizing opposition to the return of refugees and displaced persons. The Ministry for Refugees and Displaced Persons has devoted the bulk of its resources to settling displaced Serbs permanently in the RS, neglecting the needs of both Serbs who want to return to the Federation and of non-Serbs seeking to come back to the RS.

Therefore the United Nations Human Rights Commission should urge the High Representative of the international community in Bosnia to dissolve and prohibit the SDS in order to ensure the respect for human rights and the establishment of a functional multiethnic Bosnian state. The Commission should call upon SFOR and the states, supporting SFOR with troops, to arrest all persons wanted for war crimes in order to ensure reconciliation and to facilitate the return of the refugees.

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Item 15 of the provisional agenda

INDIGENOUS ISSUES

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201089 7*

ENG

Indigenous Issues

The Economic and Social Council of the United Nations adopted on the 28th of July 2000 a resolution to establish a "Permanent Forum on Indigenous Issues". This decision is a significant milestone in the decades-long struggle of indigenous peoples to gain standing within the global community. The new UN body will formally integrate indigenous peoples and their representatives into the structure of the United Nations. The Permanent Forum contains unique opportunities for enhancing the human rights, as well as the economic, cultural and social rights of indigenous peoples. The Forum might have the potential of becoming a catalyst for the improvement of the rights of indigenous peoples worldwide. Therefore the Society for Threatened Peoples calls on the UN Human Rights Commission to urge the international community for a broad financial and political support for the establishment of the "Permanent Forum on Indigenous Issues".

On 3 March 1995 the UNHRC decided to establish a working group with the purpose of elaborating a Draft United Nations Declaration on the Rights of Indigenous Peoples. The 6th session of the working group was held in Geneva from 20 November to 1 December 2000. Not a single article of the Declaration has been adopted during this session. Instead States have proposed alternate text in relation to ten articles of the Declaration. Several countries have raised fundamental objections or challenged basic principles underlying the Declaration. The UN Human Rights Commission should encourage any member States of the UN to support the adoption of the Declaration.

The UN Human Rights Commission should call upon States to recognise and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and ressources and to include indigenous issues in the debate on sustainable development, the protection of local products in the framework of the World Trade Organisation and the reform of World Bank guidelines. Furthermore indigenous issues should be more focussed in the international debate on patents and biodiversity.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement* submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201089 9*

ENG

Racism, Racial Discrimination, Xenophobia and all forms of Discrimination

The state of Israel was established by a unilateral declaration on 15 May 1948. The Declaration does not declare Israel as an independent state, nor does it declare Israel as a sovereign state; rather it declares Israel a Jewish state. This Jewish character of the state of Israel, to the exclusion of its non-Jewish citizens, clearly denotes its racist nature. In 1975, when the General Assembly passed Resolution 3379 that described Zionism as "a form of racism and racial discrimination," the US ambassador to the UN, Daniel Patrick Moynihan, complained that the resolution was unfair to Israel because Israel "was founded to be a *Jewish* state.1" Supporters of the former apartheid regime in South Africa might just as such argue that the Republic of South Africa was founded to be a *white* state and therefore should not be accused of racism!

Israel and South Africa: Two Forms of Apartheid

Israel's repressive methods and systematic human rights violations fulfill the elements of the 1976 International Convention on the Suppression and Punishment of the Crime of Apartheid, where the latter is described as: "racial segregation; and various inhumane acts." In the framework of its former apartheid policy, the Republic of South Africa devised a legal mechanism to deprive some 75% of its inhabitants of their South African citizenship. It still remains the case, however, that south African apartheid recognizes the legal personality of its black inhabitants in a way that Israeli apartheid with regards to the Palestinian Arabs does not. In the case of Israel, "apartheid is applied under the categories of 'Jew' versus 'non-Jew.' Of the almost three million non-Jewish Palestinian Arabs who are today entitled to Israeli citizenship, under the 1947 UN Partition Plan, less than 25% are Israeli citizens. Under the Absentee Property Law (1950), the State of Israel has similarly denationalized 75% of its non-Jewish Palestinian Arab inhabitants. However, having classified them as 'absentees' in the eyes of the law, it has thereby not only defined them as aliens in their home land, but has cast them outside legal existence altogether.2" Moreover, Israel has deprived 3.8 million Palestinians within the Occupied Palestinian Territories (OPT) from their citizenship by denying them their right of self-determination. Even worse, Israel does not recognize 45 villages in which 70,000 Palestinians live inside the Green line.

It has been noted that while South African land was divided into two (very unequal) parts, the division is at least stabilized, whereas the Israeli state keeps buying and expropriating land and houses for the exclusive use of Jews. This racist process is referred to by the Israelis as the 'redemption of the land," with land owned by non-Jews implicitly impure and polluted, until 'redeemed.3'

With 93% of Israel's land considered to be the 'inalienable property of the Jewish people (under the Development Authority Law), Arabs are prevented from living in any but limited areas. Israeli Arabs houses are demolished to make way for Israeli Jews. In addition, inhabitants of the West Bank and Gaza must obtain permits for almost every activity, from traveling to another town to planting a fruit tree. These permits are issued arbitrarily and frequently refused.

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1 Rachelle Marshall, "The Zionism Debate at the UN is Beside the Point, "Washington Report, November 1991.
2 Uri Davis, Israel: An Apartheid State, Chapter I
3 Gabi Baron, "The Mysterious Redeeming of the Lands," Yediot Ahronot, April 24, 1990.

A report by Amnesty International, entitled "Israel and the Occupied Territories: The Demolition and Dispossession of Palestinian Homes," emphasized that the demolition of Palestinian homes goes with the confiscation of Palestinian land throughout most of the West Bank, amounting to a policy of colonization. "Since 1987, Israeli authorities have demolished at least 2,650 Palestinian homes in the West Bank (including East Jerusalem). As a result, 16,700 Palestinians, including 7,300 children, have become homeless.4"

Through restrictions on movement, land confiscation, house demolitions and almost constant curfews, Israel has made it impossible for most Palestinians to earn a living. Unemployment in the OPT was at about 11% in mid-2000 before the Intifada began, it has skyrocketed to nearly 50% in mid-20015. The economic dependency ratio increased from 4.8% in the 3rd quarter of 2000 to 6.4 in the 2nd quarter of 2001. 49% of employees have a monthly wage below the poverty line.6 Access to goods, services and facilities is controlled by the Israeli military, including humanitarian aid/services and water supplies

Racism Inside Israel

Despite Israel's ratification of the International Covenant on Civil and Political Rights that stipulates in article 26 equality of all persons before the law without any discrimination, Palestinian citizens in Israel are discriminated against in a variety of forms and denied equal individual rights because of their national belonging. The doctrine that Israel is the state of the Jewish people in Israel and abroad, not of its citizens, is now part of the Basic Law of that country. The Supreme Court of Justice stated publicly that "its is necessary to prevent a Jew or Arab who calls for equality of rights for Arabs from sitting in the Knesset or being elected to it."7 Thus Palestinian Arabs rights to run for elections to the Israeli parliament is limited by their acceptance of the notion of the Jewish states as expressed in the Law of Political Parties (1992) and, in particular, the amendment of section 7A(1) of the Basic Law.

There are two main examples of Israeli laws that discriminate against Palestinian Arabs by directly distinguishing between Jews and non-Jews: the citizenship laws and the Law of Return (1950). The Law of Return grants every Jew the right to immigrate to Israel whereas Palestinian expelled from Israel who had their homes and lands confiscated in 1948, and after 1967, have been denied their rights of return as guaranteed under international law (UN General Assembly resolution no. 194). National identity is the main factor in deciding the acquisition of citizenship in Israel. The Nationality Law automatically grants citizenship to all Jews who have immigrated to Israel. This privilege is for Jews only.

The Budget Law which governs state funds does not specify allocations for minorities. The decision is made according to the officials' discretion. "Due to their lack of representation in governmental offices, Palestinian Arabs receive substantially less funding and have less resources allocated for welfare budgets, school facilities or other education programs8."

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4 Amira Hass, Ethnic Discrimination against Palestinians must end, December 8, 1999, wwwa.bbc.com
5 Report Update to UN Special Rapparteur on Food, November 2001.
6 Palestinian central Bureau of Statistics (PCBS), "Press Release on Labor Force Survey Results, April –June 2001 Round_ 280,000 Unemployed Persons During the 2nd Quarter 2001," http:// www.pcbs.prg/press/pre_pssd/releas.htm
7 Edward S. Herman, Israel apartheid and Terrorism, Part I.
8 The Arab association for Human Rights, discrimination in Israeli Law.

	Categories	Arabs	Jews
1	Proportion population living in overcrowded conditions, 1997	31.6%	5.7%
2	Proportion of total welfare budget received, 1998	12.5%	87.5%
3	Proportion families under poverty line, 1996	28.3%	16.0%
4	Infant mortality rate per 1,000 live births, 1995	9.1	5.5
5	Proportion of schools with psychological services, 1996	33%	95%

A special report by Professor Daniel Bar-Tal of Tel Aviv University showed that Israeli school text books as well as children's storybooks portray Palestinians and Arabs as "murderers", "rioters", "suspicious" and generally backward and unproductive. Direct delegitimization and negative stereotyping of Palestinians and Arabs are the rule rather than the exception in Israeli schoolbooks.9

This distortion is not surprising given that for years Israeli leaders have openly called the Palestinians "grasshoppers," "two-legged animals," "insects," "drugged cockroaches." In 1994, Rabbi Yaacov Perin openly declared that "One million Arabs are not worth a Jewish fingernail10." Israeli Prime Minister Menahem Begin described Palestinians in his speech to the Knesset as "beasts walking on two legs11." For Rafael Eitan, former chief of staff of the Israeli Defense Forces, " The only good Arab is a dead Arab."

For all of the above-mentioned Israeli discriminatory policies and practices of segregation and discrimination, we hereby reaffirm and call for the enforcement of the recommendations of the UN World Conference Against Racism NGO Forum Declaration, namely, we call for the immediate enforcement of international humanitarian law, specifically the Fourth Geneva Convention 1949.

We also call upon the UN to ensure the implementation of the various UN resolutions on the OPT including the withdrawal of the Israeli colonial military occupation, the right of return for refugees, and for the protection for refugees of the UN High Commission for Refugees until such time as they may be able to exercise their right to return and in accordance with UN resolution 194.

We also call for the repeal of all discriminatory laws within the state of Israel, including those of return and citizenship, which are part of the institutionalized racism and Apartheid regime in Israel.

We Call for the establishment of a war crimes tribunal to investigate and bring to justice those who may be guilty of war crimes including the crime of Apartheid which amount to a crime against humanity.

We also call for the establishment of a UN Special Committee on Apartheid and Other Racist Crimes Against Humanity perpetrated by the Israeli Apartheid regime to monitor and to report Apartheid and other racist crimes.

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9 Washington Report on Middle East Affairs, September 1999, pages 19-20.
10 Kevin James, "Israel's Apartheid Must End," New York Daily News, December 10, 2000.
11 Quoted in Ammon Kapeliouk "Begin and the Beasts," New Statesman, June 25, 1982.

Finally we call upon the international community to impose a policy of complete and total isolation of Israel as an apartheid state as in the case of South Africa which means the imposition of mandatory and comprehensive sanctions and embargo and the full cessation of all links between all states and Israel.

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COMMISSION ON HUMAN RIGHTS
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Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by the Catholic Institute for International Relations, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201090 1*
ENG

Christian Organisations and Churches call for Justice for East Timorese

We represent Christian organisations and Churches with long-standing and close links to East Timor's Christian churches. For many years we have worked in solidarity with our East Timorese brothers and sisters by raising issues relating to justice, peace and self-determination. We continue to accompany them as they build a free, independent nation based on human rights, including gender-equality and equal participation.

On 30 August 1999 the East Timorese voted for independence from Indonesia and subsequently suffered the harsh consequences of their decision. Since then we have consistently maintained that the perpetrators of the numerous crimes against humanity committed during the electoral process and after the popular consultation should be brought to speedy justice. More than two years later, we regret to see that only a few, lesser criminals have been successfully prosecuted, whilst the principal ring-leaders responsible for the crimes have been protected by the Indonesian authorities.

When we have raised these concerns with our various governments, and at the level of the United Nations, we have been informed of their preference to see Indonesia itself deal with the judicial processes necessary to bring the perpetrators to account. Yet many obstacles have been thrown in the path of effective prosecutions by an Indonesian administration which has proved unwilling to deal with the impunity enjoyed by both corrupt politicians and its armed forces.

For any human rights violation, in particular when a crime against humanity has been committed, the state concerned or the international community has the legal obligation to investigate, prosecute, trial and sentence the perpetrators and decide on compensation.

As Indonesia thus far has not lived up to the responsibilities entrusted to it in bringing perpetrators of human rights violations in ET to justice, the international community should set them a clear deadline in the near future, after which the international community will take over and establish an international tribunal.

Inside East Timor a pre-requisite for the East Timorese to have a meaningful and lasting reconciliation process is a satisfactory standard of justice. To achieve this, the Serious Crimes Unit in East Timor, which is part of the U.N. administration, as well as the East Timorese judiciary must be fully resourced and enjoy the full political support of the international community. Furthermore, the work of the Reception, Truth and Reconciliation Commission must be sure to complement and strengthen these bodies. It is essential that all the elements work together.

As the judicial processes undertaken thus far have only succeeded in dealing with minor criminals, we now strongly endorse Bishop Carlos Belo when he stated recently that *'Justice implies an international duty to prosecute the perpetrators of gross violations of human rights through an international tribunal'.*

The crimes committed in East Timor and the murder of UN personnel in West Timor were violations of UN Security Council resolutions, and affronts to the international community. They are flagrant and massive violations of human rights and humanitarian law.

For the reasons mentioned above, UN bodies should include in their decisions at a minimum, the following points:

1) There should be a deadline for the full prosecution of perpetrators named in the Komnas Ham Investigation of January 2000, and laws duly enforced. We consider that the UN should state a deadline of July 2002 for this to have been achieved.

2) The international community should, as a matter of urgency, ensure that the Serious Crimes Unit in East Timor has all the resources in terms of personnel and equipment in order to complete its work efficiently. This would include specialist advisors, technical experts, access to information, including from classified sources, and IT . There should be contingency plans for the granting of protection of key witnesses, including the provision of asylum as and when necessary, and specialists in crimes such as rape and sexual abuse.

3) The East Timorese judicial system should be properly resourced by the international community including its non-legal functions such as translation facilities, administrative support, and transportation.

4) We welcome the establishment of the Reception, Truth and Reconciliation Commission, and trust that its work will complement and reinforce the work of the judiciary and the serious crimes unit, rather than place additional burdens upon it.

5) The international community should continue all of the above support well beyond the 20th May 2002 Independence Day.

6) The Indonesian government authorities should compensate East Timor as well as individual citizens, for all damage and loss of life inflicted by its armed forces and proxies since the beginning of 1999.

7) The remaining militias in West Timor must now be effectively disarmed and prosecuted if necessary, so that potential future cross-border destabilisation is averted. This will enable the remaining refugees to return to East Timor if they so wish. In addition, all remaining armed groups within East Timor should now be fully disarmed.

We offer these remarks and recommendations as our contribution to a peaceful and stable future for East Timor.

Justice & Peace Commission, Netherlands
Catholic Institute for International Relations, UK
Caritas Australia
Uniting Church, Netherlands
Swedish Fellowship of Reconciliation
Missio Munich, Germany
Missio Aachen, Germany
Misereor, Germany
Caritas New Zealand
Centre Lebret, France
Pax Christi International
Comite Catholique Contre la faim et pour le Development, CCFD, France
Evangelischer Entwicklungsdienst/Church Development Service, EED, Germany
Catholic Agency for Overseas Development, England and Wales (CAFOD).

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by the Norwegian Refugee Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201090 3*

ENG

REPUBLIC OF CROATIA

Arbitrary deprivation of property and interference with home

As recently noted by the UN Committee on Economic, Social and Cultural Rights (hereinafter "ESCR Committee"), six years after the conclusion of the armed conflict "many displaced ethnic Serbs continue to face legal and administrative difficulties in attempting to repossess their former homes" in Croatia.1 The Croatian legal scheme2 continues to favor occupants allocated private property by the government (including persons who are neither internally displaced ("IDPs") nor refugees), allowing them to indefinitely defeat the owner's right to re-possess his/her property. Re-possession is conditioned upon government provision of alternative accommodation to the occupant.3 However, there is no time limit within which such accommodation must be provided. Further, Croatia's property repossession mechanism is limited to citizens; IDPs and refugees who have been unable to obtain Croatian citizenship are not permitted to use the repossession scheme. Croatia should adopt a re-possession scheme that upholds the right of ownership for all owners, including non-citizens.

Also as noted by the ESCR Committee,4 Croatia has not restituted occupancy rights that were eliminated by law and judicial decision during and following the armed conflict. Given Croatia's failure to address this deprivation, individuals whose rights were terminated through court action (estimated at approximately 20,000)5 have no recourse other than to seek review through the use of a narrow procedural remedy for concluded civil cases. This remedy is an inappropriate and inadequate means to address the systematic deprivation of rights.6 Those whose rights were terminated *ex lege* have no legal remedy to redress the deprivation. In Bosnia and Herzegovina and Kosovo, analogous deprivations have been remedied through post-conflict legislation restoring occupancy rights. Croatia should adopt legislation solving

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1 E/C.12/1/Add. 73, 30 November 2001, para. 10, Consideration of Reports Submitted by State Parties Under Articles 16 and 17 of the Covenant, Concluding Observations of the Committee on Economic, Social and Cultural Rights. Also see Report of the OSCE Mission to the Republic of Croatia on Croatia's progress in meeting international commitments since 18 April 1996, 24 May 2001 (hereinafter "May 2001 OSCE Progress Report"), para. 18 ("Although legislation governing the discriminatory allocation of both private and socially-owned property has since been amended or revoked, the discriminatory effects of such legislation have continued. . . . Despite repeated advice by the Mission and the international community, no comprehensive legal framework dealing with property issues has been established.").

2 E.g., the Croatian Program for the Return and Accommodation of Displaced Persons, Refugees and Resettled Persons and the Amendments to the Law on Areas of Special State Concern.

3 See Report of the OSCE Mission to the Republic of Croatia on Croatia's progress in meeting international commitments since March 2001, 13 November 2001 (hereinafter "November 2001 OSCE Progress Report"), para. 15 ("The Government continued to insist on the provision of alternative accommodation before repossession, a stand that negatively affects Serb owners. This self-imposed principle blocks property repossession and denies owners their inherent property rights."). In 1997, the Croatian Constitutional Court found a similar requirement contained in Article 11, para. 4 of the Law on Temporary Takeover contrary to the Constitution of the Republic of Croatia.

4 E/C.12/1/Add.73, paras. 10, 15; also see May 2001 OSCE Progress Report, para. 24 ("Those affected by the loss of their right to socially-owned apartments have not yet been offered effective recourse to reclaim the apartment they formerly occupied or to receive adequate compensation *in lieu* of restitution of these rights.")

5 See May 2001 OSCE Progress Report, para. 24.

6 The ESCR Committee noted the "obstacles faced by many ethnic Serbs with regard to occupancy rights and the difficulty they encounter when seeking redress through the courts" for unilaterally terminated occupancy rights. E/C.12/1/Add. 73, para. 15.

this long-standing problem which adversely affects minority return primarily to urban areas.

Lack of Access to Justice

Many refugees lack meaningful access to Croatia's private property repossession scheme since it is available essentially only to those residing in Croatia or able to travel there. Croatia should expand access for refugees so that they can apply for repossession *prior to* their return.

The private property repossession scheme eliminates the owner's right to judicial remedy otherwise available under domestic law, mandating an administrative procedure that has proven ineffective and inefficient. Croatia delegated the owner's access to court to a local administrative body, leaving the owner without a right to obtain judicial review.7 Croatia should re-instate uniform access for property owners to judicial remedies.

As noted by the ESCR Committee, Croatia's enormous backlog of court cases impedes access to justice.8 As in the example of occupancy rights, Croatia's failure to provide systematic relief for the deprivation of rights significantly contributes to this backlog. Indeed, the ESCR Committee expressed its view that "the burden on the court system could be significantly reduced by adopting non-discriminatory laws and by streamlining legal and administrative procedures."9

Denial of freedom of movement/choice of residence

The Croatian Ministry of the Interior routinely denies returning refugees who have been unable to obtain Croatian citizenship (and are thus seen as foreign citizens, primarily of Yugoslavia and Bosnia and Herzegovina) re-instatement of their permanent residence. The Ministry routinely denies re-instatement of permanent residence due to the applicants' failure to contemporaneously satisfy criteria applicable to foreigners for maintaining residence such as source of financial support, property, family attachments, etc. Such standards are not appropriate for returning refugees and ignore the returnee's prior long-term pre-conflict attachments to Croatia and the reality that attachments were disrupted by the conflict and years in asylum, including those attachments severed by state action, e.g., terminated occupancy rights that leaves refugees without access to property. Returned refugees should automatically be permitted to re-instate their permanent residence based on their pre-conflict attachments to Croatia.

Arbitrary Denial of Citizenship Acquisition

The ESCR Committee noted that "the granting of citizenship under the Law on Croatian Citizenship (1991) has not been governed by fair and objective non-discriminatory criteria based on pre-war residence and connections to Croatia.. . . the inability to prove habitual residence negatively affects the possibility of obtaining Croatian nationality for persons from certain minority groups who left during the war and wish to return to Croatia."10 Consistent

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7 Application of "double standards in the processing of property repossession claims continues. In general, Croat owners in the Danube Region have access to courts, allowing them to repossess their property quickly. In contrast, Serb owners are mostly denied such access in central and southern Croatia, while their properties cannot be repossessed until alternative accommodation is first provided to the temporary Croat users." November 2001 OSCE Progress report, para. 11.
8 E/C.12/1/Add. 73, para. 15. See also November 2001 OSCE Progress Report, para. 37 (noting official report of backlog of 1,340,000 court cases, an increase of 20% over past years.)
9 Id., at para. 28.
10 E/C.12/1/Add. 73, para. 11.

with the recommendations of the ESCR Committee as well as the obligations it undertook in 1997 when it signed on to the "Principles on Citizenship Legislation Concerning the Parties to the Peace Agreements on Bosnia and Herzegovina,"11 Croatia should "establish objective criteria for the granting of citizenship to those wishing to obtain citizenship, in particular to those who left during the war and wish to return to Croatia, irrespective of ethnic origin."12 As further recommended by the ESCR Committee, Croatia should ratify the UN Convention on the Reduction of Statelessness.

BOSNIA AND HERZEGOVINA

Arbitrary Denial of Citizenship Renunciation

Bosnia and Herzegovina ("BiH") continues to impose documentation requirements for renunciation of its citizenship that cannot be met by BiH citizens who are pre-conflict habitual residents in other independent states of the former Yugoslavia. Such requirements force individuals to maintain BiH citizenship although they lack links to BiH and hinder acquisition of citizenship in their state of residence. For example, the Croatian Ministry of the Interior continues to require formal renunciation of BIH citizenship as a condition of granting Croatian citizenship by naturalization to non-Croats who are long-term habitual residents of Croatia of Bosnian origin. Due to the negative interaction between BiH and Croatian citizenship regulations, these long-term Croatian residents remain without any legal status in Croatia, either residence or citizenship, 6 years after the Erdut Agreement and 4 years after the completion of the United Nations Administration in Eastern Slavonia. (UNTAES). Documentation requirements for renunciation of BiH citizenship should be adjusted to permit realistic access to this procedure for BiH citizens who pre-conflict habitual residents in other independent states of the former Yugoslavia.

Improper Requirements to Forfeit Refugee Status

Local administrative bodies frequently demand that refugees in the process of return forfeit their refugee status as a condition of receiving public benefits. This condition is often imposed even though the refugee is not yet able to return due to a continuing lack of access to property. For example, some pension funds require refugees who still are awaiting reconstruction to provide proof of forfeiting their refugee status in Yugoslavia prior to accepting applications for the re-instatement of pension. Social benefits in BiH should not be conditioned on forfeiture of refugee status in Yugoslavia.

FEDERAL REPUBLIC OF YUGOSLAVIA, INCLUDING KOSOVO

No Remedies Against UNMIK

IDPs like all residents of Kosovo lack any means of recourse for damages (e.g., use of property, personal injury) incurred by UNMIK. Through UNMIK Regulation 2000/47 providing immunity for KFOR and UNMIK, UNMIK obligated itself to establish a claims tribunal. In April 2001, the Ombudsperson, partially in response to a complaint by NRC, found the regulation in the absence of a claims tribunal contrary to international standards.13

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11 These principles were developed under the auspices of UNHCR and the Council of Europe.

12 E/C.12/1/Add. 73, para. 22.

13 See Special Report No. 1 on the Compatibility with Recognized International Standards of UNMIK Regulation No. 2000/47 on the Status, Privileges and Immunities of KFOR and UNMIK and Their Personnel in Kosovo (18 August 2000) and on the Implementation of the Above Regulation.

Despite the Ombudsperson's report, UNMIK continues to lack any mechanism for resolving damage claims. UNMIK should establish the claims tribunal guaranteed by Regulation 2000/47.

Unlawful Restraint on Sale of Private Property

UNMIK Regulation 2001/17 provides that sales of private property can be denied in certain designated areas where the sale could result in a change in the ethnic balance of a community. In October 2001, the Ombudsperson, partially in response to a complaint submitted by NRC, issued a report finding that this regulation violates numerous international human rights standards, including Article 1, Protocol 1 of the European Convention on Human Rights guaranteeing the right to enjoy possessions as well as Article 2, paragraph 1, Protocol 4, ECHR guaranteeing freedom of movement within one's country.14 UNMIK should eliminate Regulation 2001/17's unlawful restraint on the sale of private property.

Denial of Freedom of Movement/Choice of Residence

"Exiled" officials of the Serbian Ministry of the Interior prevent IDPs who wish to change their permanent residence from Kosovo to Serbia proper from doing so. Such a refusal by local police violates the right of these IDPs to freely move within their own state and to choose their place of residence in violation of Article 12, paragraph 1, International Covenant on Civil and Political Rights as well as Principle 14, Guiding Principles on Internal Displacement (hereinafter "GPID"). Further, police refusal to issue new identity documents with permanent residence in Serbia proper disadvantages IDPs in the enjoyment and exercise of their legal rights, including employment and education, in violation of Principle 20, GPID. Serbian officials should permit IDPs from Kosovo to change their permanent residence upon request.

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14 See Special Report No. 5 on Certain Aspects of UNMIK Regulation No. 2001/17 on Registration of Contracts for the Sale of Real Property in Specific Geographical Areas of Kosovo (22 August 2001).

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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Written statement* submitted by the Norwegian Refugee Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE. *200201090 5*
ENG

Legislative and military measures to reinforce state security must take heed of the human rights and protection needs of internally displaced people

1) The Norwegian Refugee Council (NRC) is unequivocal in its condemnation of terrorism and welcomes the concerted efforts of states in all forums to eradicate terrorism and to protect its citizens from its threat.

2) At the same time, the Norwegian Refugee Council (NRC) would emphasize that special measures to bolster state security in the face of terrorist and other threats can only be effective if they uphold humanitarian and human rights legal standards. The NRC is concerned that in the wake of 11 September 2001 events state efforts to strengthen security risk to violate the fundamental human rights of civilians already suffering from conflict if more explicit disapproval of excessive state actions is not forthcoming from international bodies such as the Human Rights Commission.

3) Perhaps nowhere is compliance with fundamental human rights obligations in the reinforcement of state security more critical than in the protection of the estimated 25 million internally displaced persons around the world. Today, in continents across the globe, persons forced to flee their homes find themselves threatened on all sides. On the one hand, civilian populations are at risk of targeted attack by armed dissident groups, guerrillas and terrorists. On the other hand, they are subject to human rights abuses by the very government security forces charged with their protection. In many instances, individuals are so fearful for their personal security that they hide and trek through forests for weeks before daring to seek assistance.

4) The Norwegian Refugee Council (NRC) through its Global IDP Database (http://www.idpproject.org) has noted a number of country situations where internally displaced persons trapped in regions of intensified fighting find themselves threatened by both armed insurgent and state security forces. Often, these civilian communities are accused of sympathizing with the government by the armed insurgents, and of sympathizing with the insurgents by the government forces. In many cases, they are targeted by individuals of both sides solely on the basis of where they reside, of where they fled from, or of where they fled to.

5) NRC fears that individuals who are already acting with impunity against unarmed civilians in conflict situations such as these will be encouraged by new anti-terrorism rhetoric and legislation and view these international and regional initiatives as a "green light" to abuse human rights law in the name of state security. It cautions states against the proposal and adoption of anti-terrorist and anti-insurgency measures that extend the powers of armed forces and judicial police without due consideration of state commitments to international humanitarian and human rights legal instruments. It appeals to states and their officials to respect humanitarian principles in their treatment of internally displaced persons in areas of conflict.

6) NRC supports the joint statement of 29 November 2001 made by the Office of the UN High Commissioner for Human Rights (UNHCHR), the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) calling on states "to refrain from excessive steps, which would violate fundamental freedoms and undermine legitimate

dissent".1 It also applauds the work of many national and international NGOs, most notably Amnesty International, in their steadfast appeals to governments to ensure compliance with human rights obligations in dealing with terrorism.2 NRC is greatly encouraged by the leadership of these international bodies and organizations at this time.

7) The Norwegian Refugee Council (NRC) appreciates the onerous challenge that governments face in seeking to ensure the security of their citizens today and stands ready to support all initiatives towards peace, security, freedom and democracy. On the basis of this position, the Norwegian Refugee Council (NRC) makes the following recommendations to Member States of the Human Rights Commission:

a) States proposing and adopting new anti-terrorist and anti-insurgency legislation should ensure that the laws clearly respect international human rights and humanitarian principles;

b) State security forces and, in particular, anti-terrorist and anti-insurgency units should receive extensive human rights training, including training on the content and use of the UN Guiding Principles on Internal Displacement;

c) States experiencing generalized violence and/or conflict on their territories should allow national and international human rights officials to access areas of concern and to monitor conditions for vulnerable populations, including internally displaced people;

d) International and regional bodies should monitor carefully any special measures implemented by states to reinforce security in order that they pay special attention to the protection needs of internally displaced people.

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1 "Human Rights and Terrorism", Joint statement by Mary Robinson, UN High Commissioner for Human Rights, Walter Schwimmer, Secretary General of the Council of Europe, and Ambassador Gérard Stoudmann, Director of the OSCE Office for Democratic Institutions and Human Rights, 29 November 2001.

2 Amnesty International has released numerous statements calling on states to strictly adhere to their international obligations and commitments to uphold human rights and fundamental freedoms in pursuing the objective of eradicating terrorism. See Amnesty International website: http://amnesty.org

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SPECIFIC GROUPS AND INDIVIDUALS: OTHER VULNERABLE GROUPS AND INDIVIDUALS

Written statement* submitted by Survival International, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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ENG

Violations of 'Bushman' peoples rights in southern Africa

While southern Africa works to put behind it the legacy of apartheid, there is one ethnic group which today still suffers from unacknowledged racist oppression and continuing loss of land. This is the group of peoples known variously by outsiders as San, Bushmen, or (in Botswana) Basarwa. (All these names are seen as derogatory by some people, but no other general term has yet been agreed; we use 'Bushman' because it is the most widely recognised.) They themselves prefer to use the name of each people, such as Ju/'hoansi, Hai//'om, or Khwe (Khoe).

In the last 300 years many have been wiped out, and most of the remainder deprived of their land and independence. While most of the killing was done by white settlers, both black and white have enslaved and exploited the Bushmen. According to the most recent estimates, the Bushmen of southern Africa amount to nearly 90,000 people,(of whom Botswana contains 47,675 and Namibia 32,000).

Their history of murder and oppression continues to mould the situation of the Bushman peoples today, as do the racist attitudes that justified it. This may take the obvious shape of contempt and ill treatment. However it can also take a more subtle form. Since their traditional way of life as hunter-gatherers is devalued and considered a miserable state, 'living like animals', it is seen as an act of kindness to change it, if necessary by force. This is exemplified by some aspects of the government of Botswana's 'Remote Area Dwellers' Programme', the logic of which is that Bushmen must be encouraged to discard their 'primitive' ways in order to be integrated into the mainstream.

In fact this view that Bushmen are 'backward' is itself extremely 'backward' and about thirty years behind the policies of many other nations, and current UN thinking. For instance, if one compares ILO Convention 169 on Tribal and Indigenous Peoples (1989) with the earlier Convention 107 (1957), the goal of 'their progressive integration' (Article, 2.1) has been abandoned, because it is recognised that this is simply a euphemism for destroying them. This has nothing to do with 'preserving' people in some imaginary 'primitive' state. Rather, as Convention 169 states (Article 7. 1.) they '...shall have the right to decide their own priorities for the process of development... and to exercise control...over their own economic, social and cultural development.' Integrating Bushmen into national society denies their right to be different and lead a life of their own choosing.

Land ownership rights

Prejudice is most clearly seen in the denial of the most fundamental right for tribal people, that of collective ownership of land, which is recognised in international law but is denied to virtually all Bushman peoples. Since the hunting and gathering lifestyle of the Bushmen has not been seen as a legitimate form of land use, they are believed to exercise no rights over land or natural resources, and hence they can be dispossessed without even being compensated.

In Botswana, the Central Kalahari Game Reserve was set up so that the G/wi and G//ana, whose ancestral territory it is, could live there in security; but in 1997 the government evicted the majority of them, many by force, to bleak resettlement camps where, unable to hunt and gather, they are entirely dependent on government handouts. Although some have returned and most continue to claim the land as their own by right, the government is determined to force the last remaining Bushmen out of the reserve. In August 2001 it announced that it would cut

off the water and other services to the Bushmen in the reserve. The government's ideology is driven by the notion that Bushmen are 'primitive and inferior' and aims to force them to abandon their land and way of life and integrate them into national society. It claims they are free to remain in the reserve, yet knows that if it cuts off the water, few if any will be able to remain on their land.

In Botswana, in spite of the fact that Bushmen are guaranteed land rights under Section 14(3) (c) of the constitution, in practice few have any. Local Land Boards may allocate land to individual, but permanent collective ownership is virtually nowhere recognised. Many Botswana Bushmen now live in settlements supposedly set up for their needs; however these are too small in area, tenure is not secure, and the water supply and facilities are frequently invaded by outsiders and their livestock, so that the Bushmen themselves are deprived and their environment degraded.

In Namibia most Bushmen, though still living on the land of their ancestors, do so as squatters on farms or on the fringes of towns, dependent on the landowners for even the most basic residence. Only the Ju/'hoansi and !Kung living in Tsumkwe District retain limited collective control over their land. However the fragility of these rights is shown by the current government plan to relocate 20,000 refugees to Tsumkwe West. The impact on the life and environment of the 4,500 mostly Bushman local population will be disastrous.

Most of the dispossession of the Bushmen has been to make way for farms and ranches, on which they have often become labourers. Some cattle barons still consider Bushmen their personal property and on white-owned farms, many continue to work for wages at or below subsistence level and often under appalling conditions.

Human rights

The Bushmen are under-represented in government at both national and local levels, and excluded from decision-making processes that affect them. State interventions on their behalf are characterised by lack of consultation, inflexibility and paternalism, while the officials who deal with them are commonly (with some praiseworthy exceptions) obstructive and patronising.

In Namibia, the Khwe of the Caprivi are being harassed and arrested without charge by the Namibian National Defence Force (NDF) and Special Field Force (SFF). Recently a Khwe man was reportedly killed by the NDF.

Their right to hunt in particular is curtailed or denied altogether. In Botswana, the abolition of 'special hunting licences' has made still harder the lives of those Bushmen who still depend on hunting, which is an important part of their subsistence and central to their culture and religion. Imprisonment of men for infringement, real or suspected, of these rules causes terrible hardship to families. Torture of men suspected by police and anti-poaching units has been reported repeatedly throughout the 1990s, and demands for independent investigation have gone unanswered.

Poverty and education

The loss of their land, livelihood an independence, has meant that the Bushmen became for the first time truly 'poor', deprived of entitlement to resources, to the extent of often going without food for days. Many rely for survival on unreliable government food aid or welfare payments, since they are no longer self-sufficient. They suffer widely from poverty-related diseases such

as TB, have little access to health care, and their life expectancy is considerably lower than national averages.

Very few Bushman children receive any formal education (in spite of some good initiatives such as that sponsored by the Namibian Ministry of Basic Education, Sport and Culture). In Namibia, fewer than one in five of school age attend school and only 1% of those who do start in primary school go on to secondary education. A major reason for the high dropout rate is the prejudice and ill treatment they meet with. Schools are frequently so far from the children's homes that they have to live in boarding hostels, often in miserable conditions. Girls are routinely exploited sexually, sometimes by their own teachers. All this is in contravention of the UN Convention on the Rights of the Child, to which Botswana and Namibia are signatories.

In these ways, the Bushmen today experience social and political alienation, and the demoralisation and lack of self-respect bred by 'internalised oppression'. The results are psychological depression, and high levels of alcohol abuse, domestic violence and crime.

Conclusion

Racist attitudes which originally led to the massacre, dispossession and impoverishment of the Bushmen still contribute to keeping them in destitution and depriving them of the rights which are theirs under international law, and in theory guaranteed by the constitutions of the nations in which they live. Unless fundamental rights such as that to land ownership are recognised urgently, the situation of the Bushmen will deteriorate further. Land is an intrinsic part of Bushman identity and loss of it leads to their destruction and disintegration as a people.

Survival calls upon the United Nations:

- to support the Bushmen's rights to collective land onwnership and to live in the way they choose, in line with its own Conventions, whether or not ratified by the states concerned

- to raise urgently with the government of Botswana the situation of the G/ana and G//wi Bushmen of the Central Kalahari Game Reserve, who will be forced to leave their land if the government cuts off their water

- to initiate an independent investigation into human rights abuses against the Bushman peoples

- to encourage the relevant governments to ratify international conventions on indigenous and tribal peoples

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INDIGENOUS ISSUES

Written statement* submitted by Survival International, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE. * 0 0 2 0 2 1 0 9 0 9 *

ENG

Acute Threats to Isolated Tribal Peoples

Summary:

Isolated tribal peoples around the world are facing potentially devastating threats to their lives and livelihoods from the invasion of their land. In particular, Survival wishes to highlight cases in Peru, Brazil, India and Paraguay, where governments are standing by whilst the peoples' lives are put in jeopardy. Given that all four governments are well aware of the threats to these peoples, and their obligations are equally well known, failure to avert a catastrophe would constitute a crime under the terms of the Genocide Convention.

The dangers that uncontrolled contact with outsiders brings to isolated tribal communities are well known. The invasion and destruction of their lands mean the loss of their livelihood and way of life. Outsiders often wrongly consider nomadic peoples to be primitive. This can lead to violence, to equally destructive efforts to settle them, and to epidemics of fatal diseases.

Uncontacted tribes are particularly vulnerable because they have not built up resistance to diseases to which outside societies are long accustomed. The introduction of the common cold, flu or other diseases such as measles, can cause an epidemic which wipes out a large proportion of the people. An example of this is the 50 to 100 Yora who died in the 1980s after colonists brought in disease (see below): this represents around half of the Yora group which was contacted at that time.

These primary dangers of contact (violence, new diseases and loss of land and way of life) result in catastrophe for previously uncontacted peoples, and, especially for peoples numbering less than several thousand members, can mean the end to their life as a people.

Two of the five acts defined as constituting genocide under the terms of the 1948 UN Genocide Convention are: 'causing serious bodily or mental harm to members of the group', and 'deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part' (articles 2b & c). Without positive and rapid action for the isolated tribal peoples living within their borders, Brazil, India, Paraguay and Peru are leaving themselves open to the charge of genocide.

These four governments are also ignoring the International Labour Organisation's two conventions concerning indigenous and tribal peoples, ILO 169 and its predecessor 107, although all have ratified at least one of them. Article 14 of ILO 169 states that, 'The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. [. . .] Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.'

Survival wishes to bring to the Commission's attention four cases where isolated tribal peoples are under particular threat:

1. The Jarawa of the Andaman Islands, India

The Jarawa are thought to number between 200 and 400 people. For hundreds of years they avoided all contact with outsiders and reacted with hostility when anyone tried to encroach on their land.

In their 1991-2021 'Master Plan', the local authorities in the Andaman Islands laid out plans to bring the nomadic Jarawa out of their forest home and settle them in a new, fixed community. In addition, a Public Interest Litigation Case was filed in 1999 against the Indian government by a lawyer. The case also urged the government to forcibly settle the Jarawa. This forced removal and sedentarisation would repeat the terrible mistakes made by British colonial powers with other tribes in the Andaman Islands. The various Great Andamanese tribes numbered 5,000 a century ago; today, only 41 people survive.

After much deliberation the court has issued a temporary order to the local administration to halt any plans to settle the Jarawa. The court has convened an 'expert committee' which must report in March 2002 before a final decision will be reached.

The forcible settlement of the Jarawa would lead to their destruction as a people, in a tragic and unnecessary repetition of history. The key to their survival is for India to recognise their land ownership rights.

2. The Yora and other peoples, Peru

The Peruvian government is poised to permit logging companies to invade the territory of uncontacted Indians. The territory lies to the south-east of the 'Upper Purú Reserved Zone', in the Madre de Dios state. The companies are simultaneously starting logging operations in the area and lobbying the government's forestry department, INRENA, to grant them formal concessions.

The isolated Indians are thought to be members of the Yora, Mashco-Piro and Amahuaca tribes. Other, contacted, Indians in the region have appealed to Survival to raise the issue.

Part of the uncontacted Indians' refuge was invaded in the 1980s by Shell, who were looking for oil. The oil exploration paths subsequently acted as an easy entrance for colonists, who brought with them colds and other diseases. In the ensuing epidemic, between 50 and 100 Yora died in the forest.

The Peruvian government must act decisively, in accordance with ILO 169 (to which it is a signatory), to recognise that the land belongs to the Indians. Logging companies must not be granted concessions on Indian territory. Without this legal protection and practical measures to enforce it, these isolated Indians could die in tragically high numbers.

3. The Ayoreo, Paraguay

The 5,000 Ayoreo are a nomadic people inhabiting the dry, scrubby forest of the Chaco region in Bolivia and Paraguay. Virtually all the Ayoreo in Paraguay have been settled by missionaries. (Some Ayoreo died during the initial stages of contact, from new diseases and a lack of the will to live). There is, however, one group who are still resisting all contact.

Those in the forest have chosen to remain isolated. Indeed, they have on occasion lost their lives resisting being forced into a settled life.

The uncontacted Ayoreo's land is now mostly owned by Paraguayan ranchers, who are pressing the government to be allowed in to clear the forest. Already there have been several cases of bulldozers coming upon recently abandoned Ayoreo camps. Some ranchers are known to be clearing the forest in violation of injunctions stopping all forestry activity. A land claim on behalf of the uncontacted Ayoreo has been sitting in the government's files for years: the

lack of political will to settle it is endangering the Indians' lives.

Paraguay is also a signatory of ILO Convention 169: its inertia in the Ayoreo case is a violation of this law and indeed its own constitution, which also guarantees Indian land ownership.

4. The Awá, Brazil

The Brazilian government has not fulfilled its obligations to many peoples who are at risk. A specific example of this is the Awá in Maranhão state. The Awá Indians are in an increasingly fragile situation as loggers and ranchers establish themselves in the Awá Indigenous Territory and the area's demarcation process is stalled.

The Awá people are one of the last nomadic hunter-gatherer peoples in Brazil. By 1950, after a century and a half of white invasions, violence and new diseases, their population was estimated at 800. Yet they have faced their worst persecution over the past fifty years. In 1979, for example, seven uncontacted Awá died of poisoning when farmers left out a 'gift' of flour laced with ant killer. Today they number less than 400, of whom about 150 are uncontacted. Their habitat continues to be converted into ranch land.

They are widely spread, and often travel between the two indigenous territories, Alto Turiaçu and Carú. These two territories have been demarcated. However, the demarcation of the critical linking area between them, the Awá Indigenous Territory, has been continuously delayed for nearly twenty years. This is in spite of money being available for the process. Indeed, demarcation of this area was a condition of a World Bank loan to the Brazilian government in 1982.

The Brazilian Constitution states that all indigenous territories were to be demarcated by 1993. If the Awá territory is not demarcated soon, it may be too late for the uncontacted Awá.

Survival calls upon the United Nations:

- to press these governments to recognise that tribal peoples are the rightful owners of their land in accordance with the ILO conventions.

- to ensure that swift action is taken to protect these isolated tribal peoples from further invasion and harassment. Where unfulfilled promises of action have been made, these governments should be urged to act.

- to affirm that tribal peoples are dependent on their land for theirlivelihoods, culture and identity, and must be recognised as the owners of these lands if they are to be able to survive and thrive as peoples.